

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

IN RE)	Bankruptcy Case
)	No. 13-63091-fra7
DONALD CHARLES GIACCARINI,)	
)	MEMORANDUM OPINION
Debtor.)	

Giovanina Giaccarini has filed a motion for relief from the automatic stay, permitting her to initiate proceedings in the Circuit Court for Josephine County, Oregon, to enforce the property aspects of the judgment dissolving her marriage to the Debtor [docket #39]. The Trustee's response simply states that this Court should determine the respective rights and obligations of the parties [docket #45]. The motion for relief from the automatic stay should be allowed, subject to certain conditions discussed herein.

At the time he filed his petition for relief in this case, the Debtor was the sole member of Empowering Technology Assistance, LLC. It appears from exhibits attached to the motion for relief, and exhibits submitted to the Court in a hearing regarding a claimed exemption [see docket #42] that Empowering Technology Assistance, LLC, is a new name of Adaptive Technology Assistance, LLC.

Part 6 of Giovanina and Donald Giaccarini's Judgment of Dissolution provides that Adaptive Technology Assistance, LLC, (whose members were the Giaccarinis and a Rachelle Steele) should be dissolved, that the assets of the LLC be transferred to the Debtor, who would be solely responsible for the LLC's debts. The Judgment states that "The [Circuit] Court shall reserve jurisdiction and oversight to implement the above provisions."

1 Giovanina Giaccarini now asserts that Debtor has not complied with the Judgment of Dissolution, and
2 seeks to enforce her rights in the Circuit Court. She further alleges that the Trustee cannot claim any interest
3 in Empowering Technology Assistance, LLC, because he is bound by the terms of the Judgment of
4 Dissolution.

5 Debtor's interest in Empowerment Technology Assistance, LLC, is property of the estate. 11 U.S.C.
6 § 541. It follows that, if Empowerment Technology Assistance, LLC, is the same entity as Adaptive
7 Technology Assistance, LLC, the Trustee has standing to contest Giovanina Giaccarini's claims with respect
8 to the asset.

9 Whether the Debtor complied with the terms of the Judgment of Dissolution, and what the interests of
10 the parties into the business may be, should be determined by the court which issued the Judgment. The
11 automatic stay should be terminated to permit the moving party to initiate proceedings in the Circuit Court to
12 determine the rights and liabilities of the parties, including the Trustee. An order will be entered by this
13 Court modifying the automatic stay, on the condition that the Trustee be joined in the contemplated
14 proceedings in the Circuit Court.¹

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17 FRANK R. ALLEY, III
18 Chief Bankruptcy Judge
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26 ¹ The Court, after review of the motion and response, determined that the matter should be decided
summarily. Hearings presently set with respect to this matter will be removed from the calendar.